

Message Text

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ACTION COME-00

INFO OCT-01 EUR-12 ISO-00 FEA-01 AGR-05 CEA-01 CIAE-00

DODE-00 EB-04 FRB-01 H-01 INR-05 INT-05 L-02 LAB-01

NSAE-00 NSC-05 PA-01 RSC-01 AID-05 CIEP-01 SS-15

STR-01 TAR-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01

SWF-01 /080 W

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FM AMEMBASSY LUXEMBOURG

TO SECSTATE WASHDC 4155

INFO AMEMBASSY BRUSSELS

LIMITED OFFICIAL USE LUXEMBOURG 0741

E.O. 11652: N/A

TAGS: ETRD, LU

SUBJECT: PREPARATION FOR MULTILATERAL TRADE NEGOTIATIONS:
NONTARIFF TRADE BARRIERS

REF: STATE 235469; A-6191

1. LEGAL STATUTES FOR GOL NONTARIFF BARRIERS POUCHED
NOVEMBER 7. INFORMATION IN REPAIR ESSENTIALLY CORRECT
WITH FOLLOWING MODIFICATIONS.

2. GOVERNMENT PROCUREMENT: DECREE OF 12/9/56 DOES NOT
GRANT 10 PERCENT PREFERENCE TO LUXEMBOURG FIRMS BUT
RATHER ARTICLE 19 OF THIS DECREE STATES THAT PREFERENCE
SHOULD BE GRANTED TO FIRMS WITHIN THE BENELUX AREA IF
THESE FIRMS CAN FURNISH THE PRODUCTS REQUESTED AT AN
EQUIVALENT QUALITY AND COMPETITIVE PRICE TO FOREIGN PRO-
DUCERS. GOL OFFICIALS POINT OUT THAT MOST GOVERNMENT
PROCUREMENT OF ANY SIZE IS CONTRACTED WITH FOREIGN FIRMS,
USUALLY GERMAN, FRENCH OR BELGIAN ENTERPRISES AND THAT
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NO ADMINISTRATIVE YARDSTICK OF 10 PERCENT IS USED IN

AWARDING SUCH CONTRACTS. GOL AUTHORITIES ALSO POINT OUT THAT THE REGULATION UNDER ARTICL 3 OF THE SAME DECREE REQUIRING THAT ALL BIDDERS BE INSCRIBED ON A GOVERNMENT BIDDERS REGISTER OR AT THE CHAMBER OF COMMERCE DOES NOT PREVENT FOREIGN COMPANIES FROM BIDDING ON GOVERNMENT CONTRACTS SINCE ARTICLE 3 ALSO ALLOWS FOREIGN FIRMS TO BID IF THEY MEET "EQUIVALENT CONDITIONS" RECOGNIZED BY THE GOL. IN PRACTICE, MANY OF THE GERMAN AND FRENCH FIRMS THAT HAVE BEEN GRANTED CONTRACTS HAVE NOT BEEN INSCRIBED ON THESE LISTS.

THE EMBASSY FINDS IT DIFFICULT TO ESTIMATE THE POSSIBLE DEGREE OF PREFERENCE TO LOCAL FIRMS AND THE DETERRENT EFFECT ON POSSIBLE U.S. BIDDERS, SINCE NO U.S. FIRM HAS, TO OUR KNOWLEDGE, BID ON A GOL PROJECT. BECAUSE OF THE SMALL SIZE OF THE LUXEMBOURG MARKET WE ESTIMATE THE TRADE DIVERSION EFFECT, IF ANY, TO BE MINIMAL.

GOL OFFICIALS STATE THAT THE DECREE OF 12/9/56 WILL BE REWRITTEN WITHIN THE NEXT FEW MONTHS IN ORDER TO BRING IT MORE INTO CONFORMITY WITH EC DIRECTIVES, AND THAT ANY DISCRIMINATORY ELEMENTS WILL BE ELIMINATED.

3. MINIMUM PRICE REGULATIONS: THE EMBASSY BELIEVES THAT THIS NTB IS INAPPROPRIATELY CAPTIONED SINCE CONTROL OF PRICES IN LUXEMBOURG IS NOT DIRECTED AT MAINTAINING A MINIMUM PRICE LEVEL BUT RATHER AT LIMITING THE MARKUP THAT LUXEMBOURG MIDDLEMEN CAN MAKE ON IMPORTED PRODUCTS. COUPLED WITH THE AUTHORITY TO CONTROL PRICES IS AN AUTHORITY TO CONTROL PROFIT MARGINS, MAKING THE ARGUMENT THAT FOREIGN SUPPLIERS WOULD BE FORCED TO CUT F.O.B. PRICES TO PROVIDE A PROFIT MARGIN FOR THE LUXEMBOURG IMPORTER PROBABLY SPURIOUS. IN ANY CASE, THE REFERENCE PRICE IN THE FOREIGN COUNTRY TO WHICH THE COSTS OF TRANSPORT AND INSURANCE ARE ADDED IS THE NORMAL RETAIL PRICE IN THE FOREIGN COUNTRY AND NOT THE WHOLESALE PRICE. UNDER THESE CIRCUMSTANCES, A PROFIT MARGIN IS ALREADY BUILT INTO THE PRICE SO THAT THE DISCRIMINATION EFFECT MENTIONED IN REFAIR (CHARGES OF DUMPING) IS UNLIKELY.

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THE LEGISLATION ESTABLISHING AN OFFICE OF PRICE CONTROL DATES FROM A GRAND DUCAL DECREE OF NOVEMBER 8, 1944, AS AMENDED IN SUBSEQUENT LEGISLATION AND THE REGULATIONS RELATIVE TO IMPORTS ARE FOUND IN ARTICLE 1 OF THE DECREE OF FEBRUARY 29, 1964. THE MAJORITY OF ITEMS UNDER PRICE CONTROL ARE FOOD PRODUCTS. AT PRESENT THE ONLY MANUFACTURED PRODUCTS SUBJECT TO PRICE CONTROL ARE PETROLEUM PRODUCTS, WINE AND CERTAIN BEVERAGES. THE EMBASSY

ESTIMATES THE EFFECT ON U.S. EXPORTS TO BE ALMOST NIL.

THE EMBASSY ALSO DOUBTS THAT THE GOL WOULD BE WILLING TO NEGOTIATE ANY CHANGES IN ITS PRICING LEGISLATION SINCE THE GOL VIEWS ITS ABILITY TO USE MANDATORY PRICE CONTROLS AS A MAJOR TOOL FOR COMBATTING INFLATION.

4. EXPORT SUBSIDIES: ARTICLE 6 OF THE NEW LEGISLATION FOR STIMULATING ECONOMIC EXPANSION (GRAND DUCAL DECREE OF AUGUST 14, 1973), PERMITS THE GOVERNMENT TO SUBSIDIZE EXPORTS. THE GOL BUDGET SUBMISSION FOR 1975 REQUESTS 5 MILLION LF IN ORDER TO SUBSIDIZE EXPORT CREDITS. GOVERNMENT OFFICIALS HAVE TOLD US THAT THE CREDIT SUBSIDIZATION WILL BE LIMITED TO A SUBSIDIZATION OF ONE PERCENTAGE POINT BELOW THE COMMERCIAL MARKET RATE FOR SIMILAR TRANSACTIONS, AND THAT IT WILL BE USED TO AID LUXEMBOURG EXPORTERS IN COMPETING WITH EXPORTERS FROM NEIGHBORING COUNTRIES WHO HAVE ACCESS TO SIMILAR EXPORT SUBSIDIES. BECAUSE OF THE SMALL AMOUNT REQUESTED FOR THIS PURPOSE, THE TRADE DIVERTING EFFECT OF THE SUBSIDY IS EXPECTED TO BE MINIMAL. FARKAS

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